

REMARKS

In the office action mailed April 15, 2010, the Examiner continued to reject the pending claims under 35 U.S.C. § 103 in view of the Robbins reference (U.S. Patent No. 5,916,526), the Skinner et al. reference (U.S. Patent Publication No. 20020155490), the Mainquist reference (U.S. Patent No. 6,534,014) or some combination thereof. After carefully reviewing the cited references, the Applicant believes that the pending claims are neither disclosed nor taught by the cited art. Hence, reconsideration of the-above captioned application in light of the remarks contained herein is now respectfully requested.

After carefully reviewing Robbins, the Applicant notes that Robbins does not disclose that the bottom surface areas of the well are *smaller* than the bottom surface areas of a well of a standard 24, 96 or 384 well microtiter plate “to permit insertion of the container into a standard 24, 96 or 324 well microtiter plate” (*See, e.g.*, Claim 1 as amended). The Applicant has amended Claim 1 to highlight that the container is dimensioned to permit this described insertion.

Robbins does not disclose any such smaller dimensions that permits the described insertion. The mere fact that the bottom surfaces of Robbins are tapered does not teach the dimensioning of Claim 1. Further, Robbins explicitly teaches that the multi-well container “maintains a standard multi-well plate tube array format and footprint” (*See*, Robbins Abstract) which specifically teaches away from making the bottom surfaces *smaller* than the standard footprint. Hence, Robbins does not disclose nor teach Claim 1 as amended.

Skinner does not correct these deficiencies. Skinner also does not teach nor disclose the concept of the surface area being smaller than the bottom surface area of a standard 24, 96 or 384-well microtiter plate. Further, there is no *prima facie* case for combining Robbins and Skinner. Skinner is using a particle with a unique identifier as a probe carrier but is using these particles in identifying genetic mutations in a PCR product. However, according to Skinner, the PCR product is provided from elsewhere in and subsequently gets mixed with particles carrying specific probes (*See, e.g.*, paragraph 68). Thus Skinner is performing the PCR and hybridization separately. As such there would be no reason to use the particles of Skinner in the well plate for PCR of Robbins.

Mainquist also fails to teach the missing elements. As such none of the references, either by themselves or in combination with each other, teach Claim 1 as it is currently pending. The

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remaining claims define additional patentable subject matter and are further allowable due to their dependency on Claim 1. The Applicant therefore believes the above-captioned application is in condition for allowance and requests the prompt allowance of the same. Should there be any impediment to the prompt allowance of this application that could be resolved by a telephone conference, the Examiner is respectfully requested to call the undersigned at the number shown below.

No Disclaimers or Disavowals


Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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